IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 16TH JANUARY 2007 / 26TH PAUSHA 1928

WP(C).No. 27517 of 2004(A)

PETITIONER:

K.MOHAMMED HAJI, PWD CONTRACTOR,
EDAYANNUR, KANNUR.

BY ADV. SRI.T.M.SREEDHARAN

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE SECRETARY, PUBLIC WORKS DEPARTMENT SECRETARIAT, THIRUVANANTHAPURAM.**

3. **THE EXECUTIVE ENGINEER, PUBLIC WORKS DEPARTMENT (R&B), KANNUR.**

BY GOVERNMENT PLEADER SMT.R.BINDU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 27517 OF 2004-A

JUDGMENT

The petitioner was a contractor, who did certain works for the respondents. The details of those works, the date of completion, the date of registration of priority etc., are given in para 11 of the writ petition. The petitioner prays for a direction to the respondents to pay the bill amounts in respect of the contracts enumerated in para 11 of the writ petition forthwith, together with interest thereon. The main grievance of the petitioner is that there was unjustified and arbitrary delay in registering his bills, after the completion of the work. Therefore, overlooking his priority, many who have completed their works later, were paid the bill amounts due to them. There was a direction of this Court to go strictly by the priority in the matter of payment of contractors' bills. So, the writ petition was amended, challenging Ext.P9 priority list.

2. The respondents have filed two counter affidavits, resisting the prayers in the writ petition. According to them, the payment is made strictly in accordance with the priority list of contractors. It is also contended that priority has to be decided with reference to the date of registration of the

bill.

3. In view Ext.P10 judgment, the contention of the petitioner that the crucial date for considering payment is the date of completion of the work and not the date of registration of the bill, cannot be accepted. Ext.P10 judgment reads as follows:

> "Since a list is prepared by the respondents stated to be with reference to the latest judgment on the subject and priority is fixed on the basis of the date of presentation of the bill, there is no contempt and the contempt is closed. If the petitioner has a case that the priority list is not in accordance with the binding judgment of this Court, it is for the petitioner to challenge such list."

In view of the above judgment, the contention of the petitioner that the date of completion of the work and not the date of registration of the bill is crucial for reckoning the priority, cannot be accepted. Therefore, the challenge against Ext.P9 fails. But, however, the petitioner is entitled to get his bills honoured in accordance with the priority list. So, the writ petition is disposed of, directing the respondents to go strictly by the priority list, in releasing the amounts due to the various contractors, including the petitioner.

16th January, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/